United States General Accounting Office

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Report to the Chairman, Committee on the Budget, House of Representatives

June 2001

BUDGET ISSUES

Budget Enforcement Compliance Report

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Accountability * Integrity * Reliability

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Abstract

This report responds to your request that we assess compliance by the Office of Management and Budget (OMB) and the Congressional Budget Office (CBO) with the requirements of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended (the Deficit Control Act). 1 Our assessment covers OMB and CBO reports issued for legislation enacted during the 2nd session of the 106th Congress, which ended on December 15, 2000. According to CBOs final sequestration report issued on December 29, 2000, discretionary outlays for all spending categories combined are estimated to fall beneath the adjusted spending limits for fiscal year 2001. OMBs final sequestration report, issued on January 16, 2001, also estimated that no sequestration of discretionary spending will be required for fiscal year 2001. To assess compliance with the Deficit Control Act (DCA), we reviewed OMB and CBO sequestration reports issued under the act to determine if they complied with all of the acts requirements. In addition we reviewed the scorekeeping reports issued by OMB and CBO to (1) identify major scoring differences and (2) determine the timeliness of the reports. Appendix I contains greater detail on our scope and methodology, as well as background information on DCA. Our work was conducted in Washington, D.C., from August 2000 through May 2001 in accordance with generally accepted government auditing

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United States General Accounting Office
Washington, DC 20548

June 15, 2001

The Honorable Jim Nussle
Chairman
Committee on the Budget
House of Representatives

Dear Mr. Chairman:

This report responds to your request that we assess compliance by the Office of Management and Budget (OMB) and the Congressional Budget Office (CBO) with the requirements of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended (the Deficit Control Act).[1] Our assessment covers OMB and CBO reports issued for legislation enacted during the 2nd session of the 106th Congress, which ended on December 15, 2000.

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To assess compliance with the Deficit Control Act (DCA), we reviewed OMB and CBO sequestration reports issued under the act to determine if they complied with all of the act's requirements. In addition we reviewed the scorekeeping reports issued by OMB and CBO to (1) identify major scoring differences and (2) determine the timeliness of the reports. Appendix I contains greater detail on our scope and methodology, as well as background information on DCA.

Our work was conducted in Washington, D.C., from August 2000 through May 2001 in accordance with generally accepted government auditing

[1]The Balanced Budget and Emergency Deficit Control Act of 1985 as amended by the Budget Enforcement Act of 1990 (BEA), the Omnibus Budget Reconciliation Act of 1993 (OBRA 93), and the Budget Enforcement Act of 1997 (BEA-97). In addition to being known as the Deficit Control Act, it is sometimes called Gramm-Rudman-Hollings or GRH. It is also referred to as BEA since that legislation amended GRH in 1990 by adding the current discretionary spending caps and pay-as-you-go procedures.

standards. We provided a draft of this report to OMB and CBO officials for their review and comment. OMB and CBO officials agreed with our presentation of their views and the facts as presented. We incorporated their comments where appropriate.

Results in Brief

Overall, we found that OMB and CBO substantially complied with the act. However, some of the required OMB and CBO reports were issued late. DCA sets a specific timetable for issuance of OMB and CBO sequestration reports, as shown in table 1.

Table 1: Sequestration Reports and Due Dates

	Due date	
Report	**CBO**	**OMB**
Preview report	5 days before President's budget submission	President's budget submission
Update report	August 15	August 20
Final report	10 days after end of congressional session	15 days after end of congressional session

Although OMB met the timing requirement for the Sequestration Preview Report, the update report was issued 19 days late on September 8, 2000, and the final report was issued 17 days late on January 16, 2001. CBO's update report was issued on time, but its preview report was issued 2 days late on February 4, 2000, and its final report was issued on December 29, 2000, 4 days late.

The late issuance of CBO's fiscal year 2001 sequestration preview report was due to the extremely late issuance of OMB's final sequestration report for fiscal year 2000. As noted in last year's compliance report, OMB's report was issued 49 days late—on January 25, 2000.[2] Because CBO uses

[2]OMB attributed the delay in issuing its final report for fiscal year 2000 to the lateness of legislation, leading to a situation in which many of its scorekeeping reports were due during its busiest time of the year—when it was preparing the President's budget. As discussed in appendix I, OMB is supposed to issue these reports within 7 working days after an appropriation or PAYGO legislation is enacted. Because the final sequestration report covers all legislation enacted during a congressional session, its timing can be affected by late scorekeeping reports. According to OMB, the lateness of appropriation action and the magnitude of legislation enacted at the end of the year caused it to miss its reporting deadline. See *Budget Issues: Budget Enforcement Compliance Report* (GAO/AIMD-00-174, May 31, 2000).

the discretionary spending limits (caps) included in OMB's final sequestration report as the starting point for the adjustments that it publishes in its preview report, CBO cannot update its fiscal year estimates until OMB's report is issued. For fiscal year 2001 CBO did not receive the data needed to issue its preview report promptly. This in turn meant that CBO's published adjustments were not available to OMB to include in the OMB fiscal year 2001 preview report, which was published in the President's Budget in February 2000.

As has been the case for the past 4 fiscal years, OMB issued most of its fiscal year 2001 scorekeeping reports late. For fiscal year 2001, OMB issued a total of 4 discretionary scorekeeping reports (covering 10 pieces of enacted legislation) and 51 pay-as-you-go (PAYGO) reports. [3] Of this total of 55 scorekeeping reports, only six of the PAYGO reports were issued on time. All of the discretionary reports and 45 of the PAYGO reports were issued later than the time required by law, which is 7 working days after enactment of the relevant piece of legislation. On average, the fiscal year 2001 discretionary spending reports were issued 23 working days late and the PAYGO reports were issued an average of 9 working days late.

While CBO does not have a timing requirement for its PAYGO or discretionary scoring reports, DCA requires CBO to issue estimates "as soon as practicable" after the Congress completes action. On average, CBO issued its fiscal year 2001 appropriations scoring reports about 3.5 working days after congressional action was completed and its PAYGO reports (for legislation with significant budgetary impact) 9.5 working days after congressional action was completed.

There was a slight improvement over last year in the percentage of OMB scorekeeping reports issued on time. Table 2 shows the percentage of reports issued late for the last 6 years. The percentage of late reports has more than doubled since 1996 and has remained above 80 percent since 1999.

[3]Although CBO issued scorekeeping reports on 157 PAYGO bills enacted during this session of the Congress, OMB no longer issues PAYGO scorekeeping reports for legislation where OMB and CBO estimate zero or negligible budget impact.

Table 2: Percentage of OMB Scorekeeping Reports Issued Late

Fiscal year	1996	1997	1998	1999	2000	2001
Percent of reports issued late	40	71.3	52.5	82.8	94	89.1

As you requested, we also looked beyond compliance to some implementation issues. We further discuss differences between CBO and OMB concerning appropriations scoring and PAYGO scoring in appendix II.

We identified a total of 21 items in which differences of over $500 million existed between CBO's and OMB's scoring of discretionary budget authority and outlays for enacted laws. Of the 21 differences, 3 are due to long-standing differences in the way OMB and CBO treat outlays from appropriations designated as contingent emergencies.[4] Additionally, four of the differences are caused by different reporting practices—these are reporting differences rather than actual differences in the estimates of budgetary effect. Eleven of the differences were due to different outlay rate estimates. Different DCA categorization (PAYGO versus discretionary) produced two of the differences and one difference was due to different assumptions concerning a payment date.

CBO and OMB differed substantially in PAYGO scoring for three pieces of enacted legislation. CBO and OMB estimates for the Transportation Appropriations Act appeared to vary by $1,265 million over the 5-year period 2001-2005. However, the actual difference in the estimates for this act is only $59 million. The apparent $1,265 million difference is related to the scoring of the civil service retirement rollback provision. CBO scored this provision as PAYGO since it always scores revenue provisions as such, while OMB scored this provision as discretionary because it was contained in an appropriations act. OMB, therefore, found no PAYGO impact for the Transportation Appropriations Act. Later, in the

[4]When the Congress designates an appropriation as a contingent emergency, the funds are not available for obligation until the President also designates the appropriation as an emergency. Traditionally, CBO has scored the budget authority and outlays for these appropriations after congressional action has been completed, while OMB scored them only after the President designated them as "emergency requirements." In February 2000, OMB began scoring budget authority for contingent emergency appropriations consistent with congressional scoring practice. Subsequently, in the fiscal year 2002 sequestration preview report, OMB reported that, consistent with congressional scoring practice, it will begin scoring outlays for contingent emergency appropriations after congressional action.

Consolidated Appropriations Act, OMB was directed to rescore the retirement rollback provision as PAYGO and then estimated an impact of $1,206 million in revenue losses. CBO and OMB also differed in their estimates of the impact of provisions in the Consolidated Appropriations Act by $22,523 million from 2001 through 2005; $21,928 million of this difference resulted from the estimates of the Medicare, Medicaid, and State Children's Health Insurance Program (SCHIP) Benefits Improvement and Protection Act of 2000. In addition, CBO estimated the cost of the National Defense Authorization Act for Fiscal Year 2001 at $20,167 million from 2001 through 2005, while OMB estimated the cost at $18,970 million over the same period.

In addition, our analysis of required cap adjustments made by OMB and CBO found no significant differences between the estimates of the final fiscal year 2001 discretionary spending caps resulting from the adjustments.

The Future of Budget Enforcement

BEA was designed to ensure lower deficits with the goal of a balanced budget, and there is widespread agreement that for much of the past decade BEA was successful in restraining fiscal action by the Congress and the President. However, there is also general acknowledgment both that the spending caps for the last couple of years were unrealistically tight when they were set and that the emergence of budget surpluses undermined the acceptance of the BEA enforcement mechanisms that had been designed to reach budget balance. In a period of surplus, the Congress and the President need a new overall framework upon which a process and interim targets can be based. A budget process that is part of a broader fiscal framework can help policymakers make wise fiscal choices and meet the challenges of this new era. Given the forthcoming expiration of the BEA enforcement regime and its apparent inadequacy in a time of surplus, you asked us to comment on the future of budget enforcement mechanisms. We discuss this more in appendix III.

We are sending copies of this report to the Director, Office of Management and Budget; the Director, Congressional Budget Office; the Chairmen and Ranking Minority Members of House and Senate Committees on the Budget and Appropriations. Copies will be made available to other interested parties on request.

Please contact me at (202) 512-9142 if you or your staff have any questions. Major contributors to this report are listed in appendix IV.

Sincerely yours,

Susan J. Irving

Susan J. Irving
Director, Federal Budget Analysis
Strategic Issues

Appendix I: Background and Scope and Methodology

The Balanced Budget and Emergency Deficit Control Act of 1985 (DCA), as amended,[1] established statutory limits on federal government spending for fiscal years 1991 through 2002 by creating

- annual adjustable dollar limits (spending caps) on discretionary spending funded through the regular appropriations process,
- a pay-as-you-go (PAYGO)[2] requirement for direct spending[3] and receipts legislation, and
- a sequestration[4] procedure to be triggered if (1) aggregate discretionary appropriations enacted for a fiscal year exceed the fiscal year's discretionary spending caps or (2) aggregate PAYGO legislation is estimated to increase the combined current and budget year deficits.

To track progress against the budget enforcement requirements and to implement any needed sequestration, DCA requires the Congressional Budget Office (CBO) and the Office of Management and Budget (OMB) to score (estimate) the budgetary effects of each appropriation action and each piece of PAYGO legislation. As soon as practicable after the Congress completes action on an appropriation or on PAYGO legislation, CBO is required to report to OMB the estimated amount of new budget authority and outlays provided by the legislation. Within 7 working days after an appropriation or PAYGO legislation is enacted, OMB must report its estimates for these amounts, using the same economic and technical assumptions underlying the most recent budget submission. It must also include the CBO estimates and explain any differences between the two sets of estimates. If there are significant differences between the OMB and

[1]DCA was amended by the Budget Enforcement Act of 1990 (BEA), the Omnibus Budget Reconciliation Act of 1993 (OBRA 93), and the Budget Enforcement Act of 1997 (BEA-97). In addition to being known as DCA, it is sometimes called Gramm-Rudman-Hollings or GRH. It is also referred to as BEA since that legislation amended GRH in 1990 by adding the current discretionary spending caps and PAYGO procedures.

[2]DCA requires that the aggregate effect of new legislation that increases direct spending or decreases receipts be deficit neutral (that is, not increase the deficit). Such legislation is often referred to as PAYGO legislation. OMB and CBO have interpreted the PAYGO requirement as applying to surpluses as well; the aggregate effect of new legislation must not decrease the surplus.

[3]Direct spending (commonly referred to as mandatory spending) means entitlement authority, the food stamp program, and any budget authority provided by laws other than appropriation acts.

[4]Sequestration is the cancellation of budgetary resources.

CBO estimates, OMB is required to consult with the budget committees prior to issuing its scoring report.

DCA also requires CBO and OMB to submit a series of three sequestration reports at specified times during each year, as shown in table 3. CBO and OMB reports include discretionary sequestration reports that adjust the discretionary spending caps and PAYGO sequestration reports that display the net decrease or increase in the deficit or surplus for enacted PAYGO legislation. Because OMB's reports control for purposes of sequestration, CBO uses estimates from OMB's most recent sequestration report as the starting point for each of its reports.

Table 3: Sequestration Reports and Due Dates

	Due date	
Report	**CBO**	**OMB**
Preview report	5 days before President's budget submission	President's budget submission
Update report	August 15	August 20
Final report	10 days after end of congressional session	15 days after end of congressional session

Discretionary Spending Limits

Annual discretionary spending limits for budget authority and outlays are set forth in DCA. The Budget Enforcement Act of 1997 amended DCA to establish three separate categories of discretionary spending for 1998 and 1999: Defense, Nondefense excluding violent crime reduction spending, and Violent Crime Reduction Spending. For fiscal year 2000, Defense and Nondefense were combined resulting in two categories—Violent Crime Reduction Spending and all other discretionary spending.[5] The violent crime reduction category was eliminated for fiscal years 2001 and 2002 and associated appropriations were included in the Other Discretionary category. The spending cap structure was altered again in the Transportation Equity Act for the 21st Century (TEA-21). Two new outlay caps that apply separately to highway and mass transit programs were established for 1999 through 2003.[6] Because these programs previously

[5]CBO refers to the spending category that encompasses all other discretionary spending as "Overall Discretionary" while OMB refers to it as "Other Discretionary."

[6]Title VIII of TEA-21 (P.L. 105-178, enacted June 9, 1998) amended DCA to add these two new caps. These caps continue for 2003 even though DCA caps only exist through 2002.

had been included under the Nondefense cap, the Nondefense cap for 1999 and the Other Discretionary caps for 2000, 2001, and 2002 were reduced. However, the new caps on highway and mass transit outlays exceeded the reductions in the other caps by about $15.4 billion. Therefore, the amount of total discretionary outlays permitted under all of the caps was increased for each year from 1999 through 2002.

On October 11, 2000, the President signed the Department of the Interior and Related Agencies Appropriations Act for fiscal year 2001 (P.L. 106-291), which established limits for a new spending category, "Conservation spending." The new spending limits were established for fiscal years 2002 through 2006 even though the DCA caps expire after 2002. The law also established six distinct subcategories under the conservation category. The subcategories are (1) federal land and state land water conservation fund, (2) state and other conservation, (3) urban and historic preservation, (4) payments in lieu of taxes, (5) federal deferred maintenance, and (6) coastal assistance. Table 4 summarizes the various caps for fiscal years 1998 through 2002.

Table 4: Discretionary Spending Categories by Fiscal Year

<table>
<tr><th>1998</th><th>1999</th><th>2000</th><th>2001</th><th>2002</th></tr>
<tr><td>Violent Crime Reduction</td><td>Violent Crime Reduction</td><td>Violent Crime Reduction</td><td rowspan="3">Other Discretionary</td><td rowspan="3">Other Discretionary</td></tr>
<tr><td>Defense</td><td>Defense</td><td rowspan="2">Other Discretionary</td></tr>
<tr><td rowspan="3">Nondefense</td><td>Nondefense</td></tr>
<tr><td>Highway</td><td>Highway</td><td>Highway</td><td>Highway</td></tr>
<tr><td>Mass Transit</td><td>Mass Transit</td><td>Mass Transit</td><td>Mass Transit</td></tr>
<tr><td></td><td></td><td></td><td></td><td>Conservation</td></tr>
</table>

Note: The Highway and Mass Transit categories were formerly included in the Nondefense category. Similarly, spending in the Conservation category was formerly included in the Other Discretionary category.

The Foreign Operations Appropriations Act for FY 2001 (P.L. 106-429), signed by the President on November 6, 2000, included a provision increasing the budget authority limit for fiscal year 2001 in the Other Discretionary category to $637 billion and the outlay limit to $612.7 billion, increases of $95.9 billion and $58.6 billion respectively.[7]

[7] P.L. 106-429 also included a provision allowing OMB to adjust the 2001 budget authority limit for this category upward by 0.5 percent, resulting in an increase of $3.188 billion. Additionally, the standard adjustments authorized by DCA for budget authority and outlays totaled $615 million and $552 million, respectively.

DCA provides that adjustments be made to the discretionary limits for certain specified reasons. The limits must be adjusted for (1) changes in concepts and definitions, (2) emergency appropriations, (3) funding for continuing disability reviews, (4) funding for International Monetary Fund (IMF) increases, (5) international arrearages funding through fiscal year 2000, (6) the earned income tax credit compliance initiative, (7) adoption incentive payments, and (8) a special outlay allowance to cover technical scoring differences between OMB and CBO. In addition to adjustments to the limits required by DCA, TEA-21 added adjustments for the two transportation caps. It requires that OMB adjust the highway spending caps in each year's sequestration preview report to reflect differences between current and future estimates of revenues that will be credited to the Highway Trust Fund. It also requires that both transportation caps be adjusted each year to reflect any changes in technical estimates of the outlays that will result from the TEA-21 funding levels. Finally, the law establishing the new conservation category specified that the amount, if any, by which appropriations for this category for a given fiscal year fall below the limit for that year will be added to the limit for the following year.[8]

In addition to increasing the discretionary spending limits, the Foreign Operations Appropriations Act also prohibited OMB from adjusting the fiscal year 2001 limits for emergency appropriations or for additional funds for IMF or international arrearages, which otherwise would have been allowed. The law also authorizes rounding adjustments of 0.5 percent in the budget authority limit for the Other Discretionary category. Both OMB and CBO used the rounding authority, adjusting the budget authority limit by over $3 billion. Appendix II presents more detail about these adjustments.

The spending limits are to be enforced by sequestration should budget authority or outlays exceed the statutory limits. CBO estimated in its fiscal year 2001 final sequestration report that total discretionary outlays for all categories combined are below the adjusted caps for 2001 and thus concluded that no discretionary sequestration was required. OMB's final sequestration report drew the same conclusion.

In addition, the law specifies that for a fiscal year in progress, if an appropriation enacted between end-of-session adjournment and July 1 of

[8]This adjustment applies to the six subcategories as well.

that fiscal year causes any of the spending limits for the year in progress to be exceeded, CBO and OMB must issue within-session sequestration reports 10 and 15 days, respectively, after enactment. On the same day as the OMB report, the President must issue an order implementing any sequestration set forth in the OMB report. If appropriations causing a breach within any category for the fiscal year in progress are made after June 30, the limits in that category for the next fiscal year will be reduced by the amount of the breach. In the sequestration update report for fiscal year 2001, OMB estimated that spending provisions in the Military Construction Appropriations Act for 2001 (P.L. 106-246), signed into law on July 13, 2000, breached the Other Discretionary budget authority limit by $2.4 billion and the outlay limit by $6.8 billion. However, section 5107 of that law bars any sequestration to eliminate a fiscal year 2000 breach or reductions in discretionary spending limits for fiscal year 2001 due to provisions in the law. Therefore, no within-session sequestration was required.

PAYGO Enforcement

PAYGO enforcement covers all direct spending (also known as mandatory spending) and receipts legislation. CBO and OMB maintain a “scorecard” showing the cumulative deficit/surplus effect of PAYGO legislation to track progress against the PAYGO requirements. If, at the end of a congressional session, cumulative legislated changes enacted in direct spending and receipts result in a net cost, a sequester of nonexempt direct spending programs is required to offset the cost. In determining the need for sequestration the estimates for the budget year and those for the current year that were not included in the final sequestration report for the current year are combined. Effective on its enactment, BEA-97 set the scorecard balance to zero for the then-current year and for each subsequent year through fiscal year 2002. This prevented any net savings achieved by legislation enacted prior to the enactment of BEA-97 from being used to offset deficit-increasing legislation enacted through 2002. The Consolidated Appropriations Act, 2000 (P.L. 106-113) required OMB to reset the PAYGO scorecard to zero on January 3, 2000. Although BEA expires in 2002, the sequestration procedure applies through 2006 to eliminate any projected net costs stemming from PAYGO legislation enacted through fiscal year 2002.

In the final sequestration reports, OMB and CBO calculate the net change in the deficit or surplus due to PAYGO legislation. However, the OMB report is the sole basis for determining whether an end-of-session sequestration is required. If OMB determines that sequestration is required, the President must issue an order implementing it. For fiscal year

2001, both CBO and OMB concluded that a PAYGO sequester was not needed. However, as in fiscal year 2000, the Consolidated Appropriations Act, 2001 (P.L. 106-554) required OMB to reset the PAYGO scorecard to zero for fiscal year 2001. OMB estimated that the cumulative effect of legislation subject to PAYGO procedures enacted through the end of the 106th Congress decreased the projected surplus in 2001 by $10.54 billion. Similarly, CBO's estimate of net costs was $7.908 billion. Absent the requirement to reset the scorecard to zero, a sequester of $10.54 billion would have been required.

Changes in OMB's Budget Scoring

As discussed in our report on BEA compliance for fiscal year 2000, after consulting with the congressional budget committees and CBO, in early 2001 OMB made two changes to budget scoring and adjusted the discretionary spending caps accordingly.[9] The first change concerned receipts from purchase power and wheeling activities associated with the Department of Energy's power marketing administrations. These receipts were reclassified from mandatory to discretionary. Scoring these receipts as discretionary reduced net discretionary budget authority and outlays; therefore the spending caps were reduced by approximately $60 million a year in fiscal years 2001 and 2002. The second change concerned the scoring of contingent emergency appropriations. When the Congress designates an appropriation as a contingent emergency, the funds are not available for obligation until the President also designates the appropriation as an emergency. In the past, although CBO scored these contingent emergency appropriations after the Congress acted, OMB did not score them until the President designated them as "emergency requirements" and only then increased the discretionary spending caps by the budget authority made available and the estimated outlays. In its fiscal year 2001 Preview Report, OMB stated that it would follow the CBO practice of scoring budget authority for these items after the Congress has completed action; it will score outlays when the President releases the funds.[10] Subsequently, in the fiscal year 2002 sequestration preview report, OMB reported that consistent with congressional scoring practice it will also begin scoring outlays for contingent emergency appropriations after

[9] *Budget Issues: Budget Enforcement Compliance Report* (GAO/AIMD-00-174, May 31, 2000).

[10] In its fiscal year 2001 sequestration preview report, OMB adjusted its scoring of the 2000 appropriations acts and the resulting discretionary spending caps to conform with this change.

congressional action. OMB plans to make an additional scoring change that will eliminate another long-standing difference it has had with CBO scoring. In March 2001, an OMB official told us that for the fiscal year 2002 budget and thereafter OMB would follow CBO's practice and score the budget authority associated with spending in the Mass Transit and Highway categories as discretionary. When TEA-21 amended BEA, it created separate outlay caps for highway and mass transit spending, but those categories do not have budget authority limits. CBO and OMB have taken different approaches to avoid counting the budget authority in these categories against the discretionary limits. CBO scores the budget authority as discretionary, but does not include the amount in the estimate of the spending limits in the final sequestration report. OMB has categorized the budget authority as mandatory spending to ensure that the discretionary total did not overstate budget authority. For fiscal year 2001, as in the past, the different treatment of this budget authority produced large differences in the scoring reports. These differences will no longer exist if OMB implements the change and both it and CBO score the budget authority as discretionary.

Scope and Methodology

To determine whether the OMB and CBO reports complied with the requirements of DCA as amended by BEA and other legislation, we reviewed the OMB and CBO preview, update, and final sequestration reports to determine if they reflected all of the technical requirements specified in DCA, such as (1) estimates of the discretionary spending limits, (2) explanations of any adjustments to the limits, (3) estimates of the amount of net deficit increase or decrease, and (4) the sequestration percentages necessary to achieve the required reduction in the event of a sequester.

We reviewed legislation dealing with budget enforcement, including DCA, as amended, and TEA-21. We reviewed appropriations acts enacted during the second session of the 106th Congress, the 21 continuing appropriations measures, as well as all applicable OMB and CBO appropriations scoring reports issued as of January 15, 2001. We also examined the OMB and CBO PAYGO scoring reports for mandatory spending and receipts legislation. We compared each OMB and CBO report and obtained explanations for differences of $500 million or more in estimates for the PAYGO reports. For discretionary spending, we compared OMB and CBO scoring reports and obtained explanations for any differences of $500 million or more in budget authority or outlay estimates. We examined OMB and CBO adjustments to the discretionary spending limits for the preview, update,

and final sequestration reports. During the course of our work, we also interviewed OMB and CBO officials.

Our work was performed in Washington, D.C., from August 2000 through May 2001, in accordance with generally accepted government auditing standards. We provided a draft of this report to OMB and CBO officials for their review and comment. OMB and CBO officials agreed with our presentation of their views and the facts as presented. We incorporated their comments where appropriate.

Appendix II: Implementation Issues

We examined three areas in which the Office of Management and Budget (OMB) and the Congressional Budget Office (CBO) often have differed in the past: (1) discretionary scoring, (2) pay-as-you-go (PAYGO) scoring, and (3) discretionary spending cap adjustments. We compared OMB and CBO discretionary and PAYGO scoring reports and obtained explanations for estimates of individual items or report totals that differed by $500 million or more. We also examined OMB and CBO adjustments to the discretionary spending limits for the preview, update, and final sequestration reports. We found no significant differences between their estimates of the final fiscal year 2001 discretionary spending caps resulting from these adjustments.

Although There Are Many Scorekeeping Differences, Neither OMB nor CBO Call for Sequestration

The CBO and OMB final sequestration reports agreed that there was no need for sequestration in fiscal year 2001. As shown in table 5, OMB estimated budget authority in all categories and outlays in all categories as below or meeting the caps. CBO estimated that budget authority for all categories was below the caps while outlays for the Highway and Mass Transit categories exceeded their limits. However, because CBO's estimates of outlays in the Overall Discretionary category were $2,488 million below the caps, the total budget authority still fell below the spending caps. The difference between the CBO and OMB estimates is accounted for by many scorekeeping differences; the largest of these are detailed in the following discussion.

Table 5: CBO and OMB Estimates of Fiscal Year 2001 Appropriations Compared to End-of-Session Discretionary Caps

Dollars in millions	OMB		CBO	
	Budget authority	Outlays	Budget authority	Outlays
Overall Discretionary				
Enacted appropriations	634,258	610,783	633,083	610,738
End-of-session caps	640,803	613,247	640,800	613,226
Difference	-6,545	-2,464	-7,717	-2,488
Highway				
Enacted appropriations		26,897		27,294
End-of-session caps		26,920		26,920
Difference		-23		374
Mass Transit				
Enacted appropriations		4,639		4,992
End-of-session caps		4,639		4,639
Difference		0		353
Total for all spending categories				
Total enacted appropriations	634,258	642,319	633,083	643,024
End-of-session caps	640,803	644,806	640,800	644,785
Difference	-6,545	-2,487	-7,717	-1,761

Note: Highway and Mass Transit categories were created by TEA-21 and include outlay caps only.

Source: OMB and CBO final sequestration reports.

Scoring Differences

Although there were many discretionary scorekeeping differences between OMB and CBO, most were relatively small. In the four discretionary scorekeeping reports issued by OMB and CBO, we identified 21 differences that were greater than $500 million in either budget authority or outlays.

Of the 21 differences greater than $500 million, 3 were due to long-standing differences in the way OMB and CBO treat contingent emergencies. CBO scores contingent emergency appropriations when the Congress enacts them. OMB traditionally scores them only after the President designates them as emergency requirements and the funds are released. In OMB's sequestration Preview Report, issued February 7, 2000, OMB reported plans to change its scoring of budget authority for contingent emergency appropriations to be consistent with congressional scoring practice and has done so. However, for the fiscal year 2001 budget, OMB continued to wait until the President has designated the appropriations as emergencies and released the funds before scoring the

associated outlays.[1] Since the scorekeeping differences due to the treatment of contingent emergencies reflect differences in timing, we have not included them in the discussion below.

Additionally, four apparent scoring differences were simply differences in the way OMB and CBO aggregated the budgetary effects of the provisions. For these provisions CBO reported its estimates of budgetary effect at the title level—in effect combining several line items, while OMB's estimates were distributed by account. Thus, where CBO estimates a cost for each title, OMB has no such estimate. However, these differences are offset by differences that appear because OMB estimates effects at the account level, while CBO has no estimates at that level. Because these are offsetting differences due to reporting aggregations, rather than actual scoring differences, we do not discuss them further. The provisions with the remaining 14 largest differences in budget authority, outlays, or both, are shown in table 6.

[1]In April 2001, OMB reported that it would begin scoring outlays for contingent emergency appropriations after congressional action. See appendix I for more information.

Table 6: Provisions With More Than $500 Million Difference Between OMB and CBO Estimates[a]

Dollars in millions

		Difference between OMB and CBO estimates (OMB-CBO)			
		2000		2001	
Act with:	**Provision**	**Budget authority**	**Outlays**	**Budget authority**	**Outlays**
Outlay rate differences					
Military Construction Appropriations Act, 2001	Overseas contingency operations transfer account	0	1,160	0	-739
Military Construction Appropriations Act, 2001	Repeal of HHS obligation delays	0	-1,175	0	1,166
Department of Defense Appropriations Act, 2001	Operations and maintenance, Army	[b]	[b]	1	505
Department of Defense Appropriations Act, 2001	Operations and Maintenance, Air Force	[b]	[b]	0	571
Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001	Medical care	[b]	[b]	138	809
Departments of Labor, Health, and Human Services, and Education and Related Agencies Appropriations Act, 2001	National Institutes of Health	[b]	[b]	0	639
Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, 2001	Welfare-to-work jobs	[b]	[b]	0	-525
Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001	Community-oriented policing services	[b]	[b]	0	793
Department of Transportation and Related Agencies Appropriations Act, 2001	Highway and Mass Transit category outlays	[b]	[b]	0	-743
DCA categorization differences					
Department of Transportation and Related Agencies Appropriations Act, 2001	Formula grants	[b]	[b]	-669	181
Department of Transportation and Related Agencies Appropriations Act, 2001	Capital investment grants	[b]	[b]	-529	-246
Payment date difference					
Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001	Housing certificate fund	[b]	[b]	0	831

Note: Positive numbers indicate provisions for which CBO estimates were lower than OMB. Negative numbers indicate provisions for which CBO estimates were higher than OMB.

[a]Differences due to the treatment of contingent emergencies and reporting aggregations are not included.

[b]Only fiscal year 2001 budgetary impacts were reported.

For these provisions, the differences between the OMB and CBO estimates can be grouped into the following categories.

Different Outlay Rate Estimates:

For the fiscal year 2000 supplemental appropriations for the Overseas Contingency Operations Transfer Account, OMB assumed a higher spendout rate than CBO in fiscal year 2000 (75 percent versus 17 percent) and a slower rate than CBO in fiscal year 2001 (20 percent versus 57 percent). OMB explained that it assumed that the Department of Defense (DOD) had transferred large amounts of resources from other accounts to fund immediate needs resulting from continued overseas operations. As a result, the supplemental funds would be used to "repay" those other accounts. Alternatively, CBO assumed that because the supplemental appropriations act that contained this provision was enacted in July—three-quarters through the fiscal year—associated outlays would be delayed. Therefore, CBO assumed that in fiscal year 2000 DOD would spend only one-quarter of the outlays CBO would usually estimate to be spent from the associated budget authority.

Different assumptions about how the National Institutes of Health (NIH) would have dealt with the imposition of the obligation delay are the primary cause of the different outlay estimates for the repeal of Department of Health and Human Services (HHS) obligation delays. OMB had assumed the obligation delay placed on NIH would not slow spending in fiscal year 2000, because NIH would speed up spending of existing resources and then "backfill" when the delayed funds became available. Therefore, the repeal of the obligation delay did not significantly change OMB's outlay estimates for fiscal years 2000 and 2001. Conversely, CBO had assumed that the original delay in availability of funds would result in a delay of outlays of $1.6 billion from fiscal year 2000 to 2001. With the repeal of the delay, CBO assumed the money could be obligated immediately and restored the $1.6 billion in outlays to fiscal year 2000.

The differences in the estimates for Operations and Maintenance, Army and Operations and Maintenance, Air Force are the result of different estimates of spendout rates for budget authority provided prior to fiscal year 2001. While OMB and CBO applied the same outlay rate for fiscal year 2001 budget authority, OMB estimated a faster rate from the prior year's budget authority than CBO did.

Similarly, OMB estimated higher outlay rates from prior year's budget authority than CBO for the Medical Care provision in the Veteran's Affairs, Housing and Urban Development Appropriations. OMB's outlay estimate from prior year balances was $989 million larger than CBO's estimate. CBO assumed that the Department of Veterans Affairs (VA) would not be

able to spend its large prior year balances as quickly as OMB believes it will. However, CBO's estimate of fiscal year 2001 outlays from new budget authority was $180 million more than OMB's estimate.

For the NIH provision in the Labor, Health and Human Services appropriations, OMB assumed higher outlay rates than did CBO for fiscal year 2001 outlays from both prior-year balances and new budget authority.

Under existing law, states and localities were required to expend all welfare-to-work funds awarded in 1998 by the end of fiscal year 2001 and all funds awarded in 1999 by the end of fiscal year 2002. The Consolidated Appropriations Act of 2001 extended the time states and localities have to spend the money by 2 years. Most of the difference in the outlay estimates for the extended availability of Welfare-to-Work Jobs grant money results from the differences in OMB and CBO baseline assumptions. In its baseline, OMB assumed that resources would be obligated and outlayed much more quickly than CBO did and that the states would spend all of their welfare-to-work grants. Thus, OMB assumes that the extended availability of funds will allow states to slow their spending in the near term, and spend more later. Therefore, OMB scored outlay savings of $485 million in fiscal year 2001 and outlay costs in fiscal years 2002 and 2003. On the other hand, in its baseline, CBO assumed that a portion of the grant money would go unspent. With the extended availability of funds, CBO assumes additional spending above its baseline—spending will not slow in the near term, but will increase in later years. In addition, OMB scored savings of $15 million from the rescission of the welfare-to-work performance bonus, while CBO scored savings of $25 million.

The difference in the OMB and CBO estimates for the Community Oriented Policing Services (COPS) provision in the Commerce, Justice, and State appropriations is also due to the use of different outlay rates. CBO assumes a modest outlay rate from new budget authority while OMB assumes no outlays in the first year. However, OMB assumes much higher outlays in the second year than CBO. For fiscal year 2001, CBO estimates $72 million more in outlays from new budget authority, while OMB estimates $865 million more than CBO in outlays from prior-year balances.

The large difference reported for the estimates of Highway and Mass Transit Category Outlays is the sum of the differences in outlay estimates in the Highway category and the Mass Transit category. CBO estimates that outlays in both categories exceeded the limits. OMB estimates that Highway outlays do not exceed the limit, while Transit outlays exceed the limit by $3 million due to rounding. The total difference of $743 million is

composed of a $392 million difference in the estimates of Highway outlays and a $351 million difference in Mass Transit outlays. OMB explained that the differences are due to different spendout rate estimates.

DCA Categorization Differences:

The Transportation Equity Act of the 21st Century (TEA-21) amended BEA to create separate outlay caps for highway and mass transit spending. However, the Highway and Mass Transit spending categories do not have budget authority limits. As in the past, OMB and CBO used different scoring treatments of the budget authority associated with the Mass Transit category in their efforts to avoid counting it against the discretionary budget authority limits. In its appropriations scoring report, CBO scored $669 million for Formula Grants and $529 million for Capital Investment Grants in budget authority under the Mass Transit category as discretionary. OMB categorized the Mass Transit budget authority as mandatory spending to ensure that its discretionary totals did not overstate budget authority. Although OMB and CBO treated the Mass Transit budget authority differently for their appropriations scoring reports, neither final sequestration report scored it against the discretionary budget authority spending caps. An OMB official told us that for purposes of the fiscal year 2002 budget and thereafter OMB will score budget authority associated with spending in the Highway and Mass Transit categories as discretionary. Thus, differences will no longer exist in the way CBO and OMB handle budget authority for these transportation programs.

Payment Date Difference:

For the Housing Certificate Fund, most of the $831 million difference is the result of CBO scoring one extra payment in fiscal year 2000. CBO scored $680 million in outlays in fiscal year 2000 reflecting an extra grant payment for Section 8 rental assistance at the end of the year and, therefore, one less payment in fiscal year 2001. In the past, the Department of Housing and Urban Development (HUD) has made early grant payments whenever the first-of-the-month payment falls on a weekend. October 1, 2000, was a Sunday, qualifying for the normal early payment. Although eligible to make the extra payment, HUD chose not to make the payment early. Thus, OMB estimates reflect the payment made in 2001. CBO explained that their estimates of discretionary prior-year spending are developed in the spring, and the Congress uses the estimates as a starting point for the budget resolution. When scoring appropriations bills, CBO remains faithful to the underlying assumptions in the budget resolution. In

addition, the remaining $151 million of the total difference was due to different outlay rate estimates.

PAYGO Scoring Issues

In its final sequestration report, CBO reported that PAYGO legislation passed by the Congress through the end of the second session of the 106th Congress resulted in a net spending increase of $42 million in fiscal year 2000 and $7,908 million in fiscal year 2001. For both years, most of that amount can be attributed to provisions in the Consolidated Appropriations Act, 2001 (P.L. 106-554). OMB, in its final sequestration report, estimated that new legislation produced a net increase of $42 million for 2000 and $10,500 million for 2001. Under BEA, OMB's 2000 and 2001 numbers would be totaled to determine whether sequestration was required.[2] However, section 2(b) of P.L. 106-554 instructs OMB to "change any balance of direct spending and receipts legislation for fiscal year 2001 … to zero" and thereby avoids a PAYGO sequestration.

P.L. 106-554 contains another directed scorekeeping provision as well. Normally under scorekeeping guidelines, when changes to mandatory spending are made in an appropriation act, the effect of those changes are initially counted as discretionary spending and in the following year are reclassified as mandatory. However, section 2(a) in the Consolidated Appropriations Act specified that certain costs in the Consolidated Appropriations Act and other acts be counted as part of the PAYGO balance and not as discretionary spending, otherwise they would have counted against the discretionary caps. This resulted in $7,170 million being scored as PAYGO rather than discretionary in fiscal year 2001. These PAYGO costs were then part of the PAYGO balance that was subsequently eliminated when the scorecard was reset to zero.

During the second session of the 106th Congress, 53 pieces of PAYGO legislation with estimated budgetary impact greater than $500,000 were enacted.[3] We analyzed those scorekeeping reports for which OMB and CBO estimates differed by $500 million or more either in any single year or

[2]As required by BEA, the fiscal year 2000 total reflects only that legislation added to the scorecard after the 2000 final sequestration report was issued.

[3]OMB announced in its Sequestration Preview Report for fiscal year 2000 that it was no longer issuing PAYGO reports on legislation for which OMB and CBO estimate zero or negligible budget impact, i.e., less than $500,000. During the 2nd session of the 106th Congress, OMB issued 51 PAYGO reports. CBO issued 52 reports for legislation estimated to have impacts greater than $500,000.

over the 5-year period 2001 through 2005. Only three pieces of legislation met this criterion: (1) the Department of Transportation and Related Agencies Appropriations Act, 2001, (P.L. 106-346), (2) the National Defense Authorization Act for Fiscal Year 2001, (P.L. 106-398), and (3) the Consolidated Appropriations Act, 2001, (P.L. 106-554). They are discussed below.

Department of Transportation and Related Agencies Appropriations Act

Besides providing appropriations for the Department of Transportation, the Department of Transportation and Related Agencies Appropriations Act includes various general provisions. One of these, found in Section 505 of the act rolls back by 0.5 percent the amount employees contribute to the mandatory civil service retirement fund.

OMB did not originally score this section as PAYGO when the law was signed on October 23, 2000. As discussed above, when changes to mandatory programs (including offsetting receipts) are made in an appropriation act, the effect of those changes is initially counted as discretionary and in the following year is reclassified as mandatory. So OMB scored section 505 as discretionary, reducing budget authority and outlays by $427 million for fiscal year 2001. In contrast, since CBO interprets the BEA scorekeeping guidelines as instructing that only direct spending provisions in appropriations bills are to be treated as discretionary, it always scores revenue provisions as PAYGO no matter the type of legislation in which the provision is contained. CBO estimated a decrease in receipts of $460 million in fiscal year 2001 and $1,265 million from fiscal years 2001 through 2003. Due to this scoring discrepancy, CBO showed $1,265 million more in PAYGO than did OMB. Subsequently, section 2(a) of the Consolidated Appropriations Act, enacted on December 21, 2000, specified that section 505 of the Department of Transportation and Related Agencies Appropriations Act, 2001 be treated as PAYGO legislation. In response, OMB re-scored the provision as mandatory when it scored the Consolidated Appropriations Act and estimated a $1,206 million decrease in revenue over the 5-year period. OMB also adjusted the discretionary scorecard to reflect the directed scoring provision. Once OMB re-scored the provision as PAYGO there was an insignificant scoring difference of $59 million over the 5-year period. (See table 7.)

Table 7: Comparison of OMB and CBO Scoring for Section 505 of the Department of Transportation and Related Agencies Appropriations Act, 2001, as Directed in the Consolidated Appropriations Act, 2001

Dollars in millions

	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	Total
OMB	-$427	-$619	-$160	$0	$0	**-$1,206**
CBO	-460	-640	-165	0	0	**-1,265**
Difference (OMB-CBO)	$33	$21	$5	$0	$0	**$59**

Consolidated Appropriations Act, 2001

As discussed earlier, the Consolidated Appropriations Act, 2001, incorporated three regular appropriations acts for fiscal year 2001 into a single measure. In addition, the consolidated act included six other separate measures: (1) the Miscellaneous Appropriations Act, 2001 (H.R. 5666), (2) the Commodity Futures Modernization Act of 2000 (H.R. 5660), (3) the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (H.R. 5661), (4) the Community Renewal Tax Relief Act of 2000 (H.R. 5662), (5) the New Markets Venture Capital Program Act of 2000 (H.R. 5663), and (6) the Small Business Reauthorization Act of 2000 (H.R. 5667). Both OMB and CBO prepared PAYGO scorekeeping reports on this legislation due to the instructions in section 2(a) directing the treatment of certain provisions as mandatory despite being contained in an appropriations act.

As shown in table 8, there were significant differences between OMB and CBO scoring over the 5-year cost of the legislation. OMB and CBO differed by $22,523 million over the 5-year estimate, with the largest annual difference of $7,099 million occurring in fiscal year 2005.

Table 8: Comparison of OMB and CBO PAYGO Scoring for the Consolidated Appropriations Act, 2001

Dollars in millions

	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	Total
OMB	$7,170	$11,510	$9,551	$9,995	$11,237	**$49,463**
CBO	4,616	8,650	5,374	4,162	4,138	**26,940**
Difference (OMB-CBO)	$2,554	$2,860	$4,177	$5,833	$7,099	**$22,523**

Most of the direct spending and the major differences in the estimates stemmed from scoring of the Medicaid and Medicare provisions of H.R. 5661, Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act. In addition, directed scoring by OMB of the civil service retirement rollback in the Consolidated Act contributed $1,206 million to the 5-year difference, as discussed in the previous section.

H.R. 5661 directed the Secretary of the Department of Health and Human Services to issue new regulations for the Medicaid payment system, increased payments for many Medicare services, and expanded Medicare coverage for certain preventive procedures, among other things. Differences in OMB and CBO scoring of this legislation total almost $22 billion over the 5-year period 2001 through 2005.

Of the $21,928 million difference for H.R. 5661, $19,116 million is related to Medicaid, SCHIP, and other health provisions. (See table 9.) Mainly, this is due to the requirement that HHS close a loophole that allowed states to make higher than usual payments to non-state government facilities under the Medicaid program.[4] Typically, a state using this strategy would pay a local government facility the maximum payment eligible for federal matching dollars, or upper payment limit, instead of the amount that it would normally compensate other Medicaid providers using its payment rates. The state would then receive the federal matching contribution for the higher-than-normal payment. The local government facility would transfer all or an agreed-upon share of the excess payment back to the state, which would use the funds to cover the state share of Medicaid costs and/or for other purposes. New regulations to close the loophole would be phased in over time, with full compliance required by October 1, 2008. The

[4]For more information see *Medicaid: State Financing Schemes Again Drive Up Federal Payments* (GAO/T-HEHS-00-193, Sept. 6, 2000).

estimating difference results from CBO assuming higher use of inappropriate upper payment limits in the current system than does OMB. CBO therefore estimates higher savings from the new provision. In fact, CBO estimates decreases in the growth of the Medicaid baseline starting in fiscal 2002 and continuing through fiscal year 2005.

Table 9: Comparison of OMB and CBO Scoring Medicaid and SCHIP Provisions

Dollars in millions

	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	Total
OMB	$995	$1,520	$690	$390	$220	**$3,815**
CBO	31	-755	-3,327	-5,069	-6,181	**-15,301**
Difference (OMB-CBO)	$964	$2,275	$4,017	$5,459	$6,401	**$19,116**

The remaining $2,812 million difference between OMB and CBO scoring of H.R. 5661 relates to different baseline assumptions for Medicare and different technical estimates of certain provisions. Both OMB and CBO officials acknowledge their baselines have overestimated cost growth in Medicare over the past several years, OMB more so than CBO. In response, both say they have lowered their baseline but OMB still predicts a more rapid increase in Medicare spending growth in the near future than does CBO. Additionally, section 507 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act clarifies the definition of the "homebound" qualifying requirement for the Medicare home health benefit, specifying that beneficiaries may not be disqualified for the benefit if they leave home to use adult day care in a licensed facility for certain purposes or if they attend religious services. OMB officials believe the administration's interpretation of this provision will qualify a greater number of beneficiaries than does CBO. Lastly, the Congress has taken steps in this legislation to increase spending on the Medicare+Choice program, the rationale being to persuade managed care plans who have left or are thinking of dropping out of the program to continue participating. OMB officials believe that in the long term, the managed care spending will increase as a result. CBO believes this as well, but to a lesser extent.

National Defense Authorization Act for Fiscal Year 2001

The National Defense Authorization Act for Fiscal Year 2001, P.L. 106-398, authorized fiscal year 2001 appropriations for DOD programs, modified military pay and benefits, created a new entitlement to provide lifetime health care for military retirees and pharmacy access to all Medicare-

eligible retirees, authorized fiscal year 2001 appropriations for the Department of Energy (DOE) national security programs, created the Energy Employees Occupational Illness Compensation Program, and made other modifications to national security and related programs.

CBO estimated that the provisions in this act would cost about $20,167 million over the 5-year period 2001 through 2005, whereas OMB scored the legislation to cost $18,970 million over the same period—a difference of $1,197 million. Table 10 shows the annual differences between OMB and CBO scoring for this legislation.

Table 10: Comparison of OMB and CBO Scoring for National Defense Authorization Act for Fiscal Year 2001

Dollars in millions

	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	Total
OMB	$428	$853	$5,694	$5,883	$6,112	**$18,970**
CBO	-22	360	6,165	6,611	7,053	**20,167**
Difference (OMB-CBO)	$450	$493	-$471	-$728	-$941	**-$1,197**

The most significant differences between the OMB and CBO scoring related to the estimates for the military health care entitlement. This entitlement establishes a new trust fund starting in fiscal year 2003, the Department of Defense Medicare-Eligible Retiree Health Care Fund. The money in this fund would pay for health care for retirees age 65 and over, who currently must rely on Medicare for their medical needs unless they have access to a military treatment facility. In essence, beneficiaries would be eligible to use TRICARE, DOD's health insurance program, as a supplement to Medicare. Additionally, those eligible would be permitted to use the TRICARE prescription drug benefit beginning April 1, 2001.

CBO estimates $18,738 million in spending for the health care benefit over the 5-year period, $2,214 million more than OMB's estimate of $16,524 million as shown in table 11. OMB officials offer several reasons for this large disparity in the estimates. One difference stems from CBO's assumption that 90 percent of eligible patients will use TRICARE while OMB estimates a participation rate of 80 percent. Furthermore, OMB presumes that more Medicare-eligible retirees will use DOD's special pricing agreements for pharmaceuticals than does CBO. In addition, CBO assumes that 10 percent of DOD's overall health spending will shift to the mandatory program while OMB did not believe this was a valid

assumption and eliminated the shift from its estimates. Another estimating difference results from different assumptions about how the new program will affect Medicare. Both CBO and OMB agree that people will use more Medicare services because they are no longer paying out-of-pocket costs, but in this case CBO estimates smaller increases than does OMB.

Table 11: Comparison of OMB and CBO Scoring for the Military Retiree Health Care Benefit of the National Defense Authorization Act for Fiscal Year 2001

Dollars in millions

	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	Total
OMB	$33	$164	$5,110	$5,445	$5,772	**$16,524**
CBO	23	150	5,703	6,183	6,679	**18,738**
Difference (OMB-CBO)	$10	$14	-$593	-$738	-$907	**-$2,214**

Another provision of the National Defense Authorization Act with significant scoring differences (see table 12) is the DOE workers' compensation entitlement program, which provides benefits to federal employees and contractors who worked for DOE and its predecessor agencies. Starting July 31, 2001, diseased workers would be allowed to collect a lump-sum payment of $150,000 and/or medical benefits for certain diseases caused by exposure to dangerous materials in the workplace. Workers who are receiving or have received $100,000 under the Radiation Exposure Compensation Act (RECA) will receive the $50,000 difference. Because the program begins 10 months into fiscal year 2001, CBO estimates no payments will be awarded until fiscal year 2002. It believes that the agencies will not have enough of the program in place to make benefit payments right away. OMB assumes no lag and estimates $338 million will be expended in the first year. OMB states that DOE staff have received roughly 900 inquiries per week about the program since January. Most likely, the initial surge will come from certified RECA claims and defined special exposure cohort cases.[5] Even though both agencies used DOE and Department of Justice data for population estimates and applied NIH cancer incidence data to those population estimates, OMB assumed a higher eligible population. The largest difference is for the radiogenic cancer element. According to OMB, the total potentially eligible population is about 583,000. Applying the NIH

[5]Special exposure cohort cases are more straightforward cases involving those persons with a RECA cancer who worked in any of four specified locations.

cancer incidence data and an 8-percent claim approval rate approximates 4,000 individuals eligible for the program. In contrast, CBO estimated that a total of only 920 individuals will receive this compensation. Based on DOE radiation exposure records, CBO assumes only a small percentage who develop cancer will have sufficient evidence to establish that their exposure to radiation in the workplace is the source of their cancer.

Table 12: Comparison of OMB and CBO Scoring for the Energy Employees Occupational Illness Compensation Program Act of 2000

Dollars in millions

	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	Total
OMB	$338	$551	$430	$230	$198	**$1,747**
CBO	0	243	381	279	189	**1,092**
Difference (OMB-CBO)	$338	$308	$49	-$49	$9	**$655**

Appendix III: Future of Budget Enforcement Rules

The discretionary spending limits and pay-as-you-go (PAYGO) mechanism established by the Budget Enforcement Act (BEA) will expire in fiscal year 2002.[1] While both the fiscal year 2001 and 2002 budgets proposed to extend the discretionary caps and the PAYGO enforcement, to date no such legislative action has been taken. There is widespread agreement that for much of the past decade BEA was successful in restraining fiscal action by the Congress and the President. However, there is also general acknowledgment both that the spending caps for the last couple of years were unrealistically tight when they were set and that the emergence of budget surpluses undermined the acceptance of the BEA enforcement mechanisms that had been designed to reach budget balance. Given the forthcoming expiration of the BEA enforcement regime and its apparent inadequacy in a time of surplus, you asked us to comment on the future of budget enforcement mechanisms.

Recent History of Budget Enforcement Rules

The Budget Enforcement Act of 1990 (Title XIII of P.L. 101-508) was designed to constrain future budgetary actions by the Congress and the President. BEA took a different tack on fiscal restraint than earlier efforts, which had focused on annual deficit targets in order to balance the budget.[2] BEA sought to reach budget balance by limiting congressional actions. The process was designed to enforce a previously reached agreement on the size of discretionary spending and the budget neutrality of revenue and mandatory spending legislation (PAYGO). In 1993, the discretionary spending limits and the PAYGO rules were extended through fiscal year 1998; the 1997 Budget Enforcement Act (title X of P.L. 105-33) again extended the discretionary spending caps and the PAYGO rules through 2002.

There is broad consensus among budget experts that BEA served for much of the last decade as an effective restraint on spending. BEA's discretionary spending caps reined in the growth of discretionary spending while PAYGO enforcement constrained the expansion of entitlements and

[1]Although the overall discretionary spending caps expire in 2002, the Highway and Mass Transit outlay caps established under Transportation Equity Act for the 21st Century (TEA-21) continue through 2003, and the conservation caps established as part of the fiscal year 2001 Interior Appropriations Act were set through 2006. In addition, the sequestration procedure applies through 2006 to eliminate any projected net costs stemming from PAYGO legislation enacted through fiscal year 2002.

[2]For more on history see *Budget Process: Evolution and Challenges* (GAO/T-AIMD-96-129, July 11, 1996).

tax cuts. In fiscal year 1998, the federal government ran a unified surplus for the first time in nearly 30 years. The budget was in surplus again in fiscal years 1999 and 2000 and now surpluses are projected even beyond the 10-year projection period. The 1997 act envisioned achieving a balanced budget in 2002. Though surpluses were achieved earlier than expected, the BEA enforcement regime did not end. Both the PAYGO rules for direct spending legislation and the discretionary spending caps are in force through fiscal year 2002.[3] However, there is widespread agreement that the BEA control mechanisms have been stretched so far in the last couple of years that they no longer serve as an effective restraint. Recurring budget surpluses have undermined the acceptance of the spending caps and the PAYGO enforcement designed to achieve budget balance.

Trends in Adherence to the Discretionary Spending Caps and PAYGO Constraints

Figure 1 illustrates the increasing lack of adherence to the original discretionary spending caps since the advent of surpluses in 1998. The figure shows the original budget authority caps as established in 1990 and as extended in 1993 and 1998, adjustments made to the caps, and the level of enacted appropriations for fiscal years 1991 through 2002. With the exception of fiscal year 1991, in which the adjustment was largely for Operation Desert Storm, adjustments to the spending caps—mostly due to emergency appropriations—were much larger in the last several years of budget surpluses than in prior years. As we reported in our last two compliance reports, the amounts designated as emergency spending for fiscal years 1999 and 2000—$34.4 billion and $30.8 billion, respectively—were significantly higher than in most past years.[4] In addition to the larger-than-normal amounts, emergency appropriations in 1999 and 2000 also were used for a broader range of purposes than in most prior years.[5] For

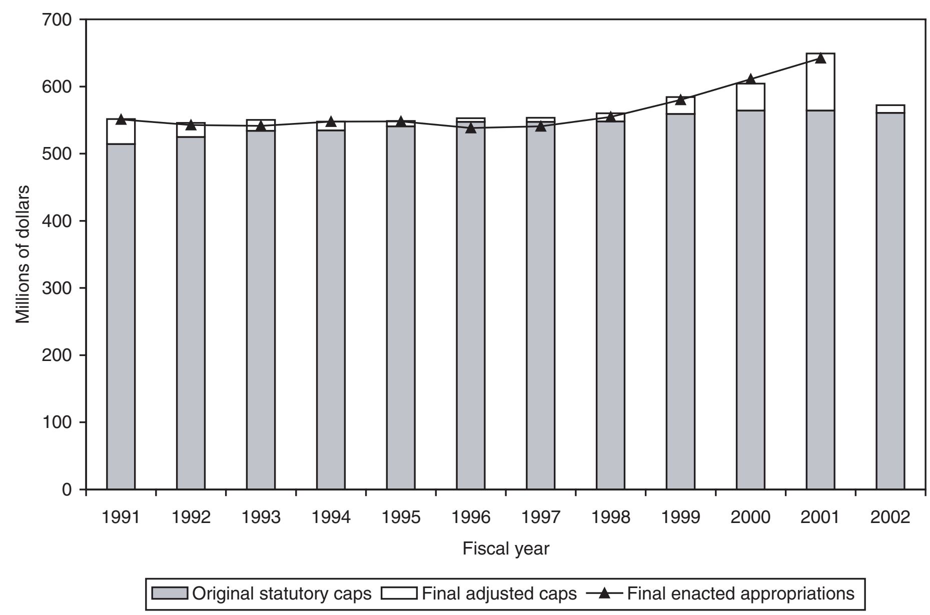
[3]See *The Budget Enforcement Act: Fact Sheet On Its Operation Under a Budget Surplus*, Congressional Research Service, February 28, 2001.

[4]See *Budget Issues: Budget Enforcement Compliance Report* (GAO/AIMD-99-100, Apr. 1, 1999) and *Budget Issues: Budget Enforcement Compliance Report* (GAO/AIMD-00-174, May 31, 2000).

[5]Additional information on issues related to emergency spending can be found in the Congressional Budget Office report *Emergency Spending Under the Budget Enforcement Act*, issued in December 1998, the update to that report issued in June 1999, the CBO report *Supplemental Appropriations in the 1990s*, issued in March 2001, and the GAO reports *Budgeting for Emergencies: State Practices and Federal Implications* (GAO/AIMD-99-250, Sept. 30, 1999) and *Emergency Criteria: How Five States Budget for Uncertainty* (GAO/AIMD-99-156R, Apr. 20, 1999).

fiscal year 2001, the Congress took a different approach. The Congressional Budget Office (CBO) discretionary scoring reports show that only $8.7 billion in budget authority was designated as emergency spending. However, as discussed in appendix I, the Foreign Operations appropriations for fiscal year 2001 raised the 2001 budget authority cap by $95.9 billion, a level assumed to be sufficient to cover all enacted and anticipated appropriations.

Figure 1: Discretionary Outlay Caps and Enacted Appropriations



Note: Data for fiscal year 2001 are current as of January 16, 2001; the final amount after the end of the fiscal year may be higher depending on the enactment of any supplemental spending. Fiscal year 2002 appropriations have not been enacted and the amount of total adjustments to the spending caps may increase if additional adjustments are made.

Source: Office of Management and Budget.

Emergency spending designations have not been the only means used to permit spending above the discretionary spending caps. In January 2001, CBO reported that advance appropriations, obligation and payment delays, and specific legislative direction for scorekeeping have been used to boost discretionary spending while allowing technical compliance with the limits.

Advance appropriations have provided a way for the Congress to pass appropriations that are scored, or counted, in subsequent fiscal years rather than the years in which they are enacted. The Office of Management

and Budget (OMB) has advocated limiting this type of funding to its use as a way to fully finance capital projects and ameliorate the problem of budget spikes caused by funding the entirety of a large capital project in one fiscal year. However, advance appropriations can and have also been used to avoid spending limitations and/or to mask true spending levels by crediting appropriations to other years.

For fiscal year 2000, provisions of law that delayed certain obligations and payments pushed outlays from certain appropriations into the next year. CBO has reported that while these and the other techniques mentioned are not new, in recent years they have been used in different ways or to a greater extent than had been the case in previous years.[6]

Directed scoring occurs when the budget committees instruct CBO to use an estimate for an appropriation action that is different from the one that CBO would otherwise use. CBO also reported that the committees directed it to use such estimates for a wider variety of programs in 2000 than had been the case in previous years and that these directions lowered CBO's estimates of budget authority by $3 billion and of outlays by about $19 billion.

As previously noted, in November 2000, as part of the Foreign Operations Appropriations Act, the Congress and the President increased the fiscal year 2001 "other discretionary spending category" caps to accommodate already enacted discretionary appropriations and the anticipated levels for the remaining appropriations acts. The budget authority limit was raised by $95.9 billion and the outlay limit by $58.6 billion—increases of 17.7 percent and 10.6 percent, respectively. However, as shown in figure 1, the fiscal year 2002 spending caps were not similarly adjusted. As a result, for fiscal year 2002 the Congress and the President will face budget authority and outlay caps set at $85.6 billion and $70.2 billion less than fiscal year 2001 appropriations, respectively.

The consolidated appropriations acts for both fiscal years 2000 and 2001 mandated that OMB change the PAYGO balance to zero. In fiscal year 2000, this direction eliminated over $35 billion in costs from the PAYGO scorecard for future years. In fiscal year 2001, both OMB and CBO

[6] *The Budget and Economic Outlook: Fiscal Years 2001-2010*, CBO, January 2000.

estimated that without the instruction to change the scorecard a sequestration would have been required.[7]

Principles for a Budget Process

On the eve of the BEA's expiration, the Congress has a myriad of options available for consideration as it begins crafting a new budget process. In the past, we have suggested four broad principles or criteria for a budget process.[8] The process should

- provide information about the long-term impact of decisions, both macro—linking fiscal policy to the long-term economic outlook—and micro—providing recognition of the long-term spending implications of government commitments;
- provide information and be structured to focus on important macro trade-offs--e.g., between investment and consumption
- provide information necessary to make informed trade-offs between missions (or national needs) and between the different policy tools of government (such as tax provisions, grants, and credit programs); and
- be enforceable, provide for control and accountability, and be transparent, using clear, consistent definitions.

The lack of adherence to the original BEA spending constraints in recent years, the nearing expiration of BEA, and the projection of continued and large surpluses in the coming years suggest that now may be an opportune time to think about the direction and purpose of our nation's fiscal policy. In a time of actual and projected surpluses, the goal of zero deficit no longer applies. Rather, discussion shifts toward how to allocate surpluses among debt reduction, spending increases, and tax cuts. Only then can limits on subcategories of spending be set. Will the entire social security surplus be "saved"? If so—and to date there seems to be widespread support for this—then how should the "on-budget" surplus be allocated? In our work on other countries that also have faced the challenge of setting fiscal policy in a time of surplus we found that as part of a broad

[7] For more information see appendix I of this report and *Budget Issues: Budget Enforcement Compliance Report* (GAO/AIMD-00-174, May 31, 2000), appendix III.

[8] For a fuller discussion of these criteria see *Budget Process: Evolution and Challenges* (GAO/T-AIMD-96-129, July 11, 1996), *Budget Process: History and Future Directions* (GAO/T-AIMD-95-214, July 13, 1995), and *Budget Process: Comments on H.R. 853* (GAO/T-AIMD-99-188, May 12, 1999).

fiscal policy framework some countries adopted fiscal targets such as debt-to-GDP ratios to serve as a guide for decision-making.

Complicating the discussion on formulating fiscal policy in a time of surplus is the fact that the long-term picture is not so good. Despite current projections that show surpluses continuing over the 10-year budget window, our long-term budget simulations show a resumption of significant deficits emerging after the anticipated demographic tidal wave of population aging hits. These demographic trends serve to emphasize the importance of the first principle cited above—the need to bring a long-term perspective to bear on budget debates. Keeping in mind these principles and concerns, a number of alternatives appear promising.

Alternatives for Improving the Budget Process

There is a broad consensus among observers and analysts who focus on the budget both that BEA has constrained spending and that continuation of some restraint is necessary even with the advent of actual and projected surpluses. These views have been articulated by diverse commentators. During his testimony to the Senate Budget Committee on January 25, 2001, Federal Reserve Chairman Alan Greenspan stated, "… I think that with all of the very complexity of the previous caps, pay-go systems and the like, at the end of the day, they actually were quite effective."[9] He told the House Budget Committee that he has been "quite surprised" at how well some of the measures the Congress adopted in past years to restrain discretionary spending have worked, and stated that "pay-go" has always "been very useful."[10] These sentiments have been also been echoed by former CBO director Robert Reischauer, the Concord Coalition, and President Bush in his "Blueprint for New Beginnings."[11] Discussions on the future of the budget process have primarily focused on revamping the current budget process rather than establishing a new one from scratch.

Where discussion has moved beyond a general call for continued restraint to continuation or creation of specific control devices, the ones most

[9]Greenspan, Alan, Testimony before the Senate Budget Committee, January 25, 2001.

[10]Gregg, Diana. "U.S. Budget: Greenspan Says Getting Productivity Right 'Critical' Item in Budget Preparation," Bureau of National Affairs, No. 43, March 5, 2001.

[11]Reischauer, Robert D., "Stop Them Before They Overspend Again," *New York Times*, Feb. 8, 2001; The Concord Coalition, "Discretionary Spending Caps: What's Next?" Issue Brief, September 11, 2000; and *A Blueprint for New Beginnings* (Washington, DC: Office of Management and Budget, 2001), pp. 171-2.

frequently discussed are (1) extending the discretionary spending caps, (2) extending the PAYGO mechanism, and (3) creating a trigger device or a set of rules specifically designed to deal with the uncertainty of budget projections. A new budget process framework could encompass any or all of these instruments.

Extending Caps on Discretionary Spending

BEA distinguished between spending controlled by the appropriations process—"discretionary spending"—and that which flowed directly from authorizing legislation provisions of law—"direct spending," sometimes called "mandatory." Caps were placed on discretionary spending—and the Congress' compliance with the caps was relatively easy to measure because discretionary spending totals flow directly from legislative actions (i.e., appropriations laws). As noted above, there is broad consensus that, although the caps have been adjusted, they have served to constrain appropriations. This consensus combined with the belief that some restraints should be continued has led many to propose that some form of cap structure be continued as a way of limiting discretionary appropriations. However, the actions in the last 2 years have also led many to note that caps can only work if they are realistic; while caps may be seen as tighter than some would like, they are not likely to bind if they are seen as totally unreasonable given current conditions.

Further, some have proposed that any extension of BEA-type caps be limited to caps on budget authority. Outlays are controlled by and flow from budget authority—although at different rates depending on the nature of the program. Some argue that the existence of both budget authority and outlay caps has encouraged provisions such as "delayed obligations" to be adopted not for programmatic reasons but as a way of juggling the two caps. The existence of two caps may also skew authority from rapid spend out to slower spend out programs, thus pushing more outlays to the future and creating problems in complying with outlay caps in later years. Extending only the budget authority cap would eliminate the incentive for such actions and focus decisions on that which the Congress is intended to control—budget authority, which itself controls outlays. This would be consistent with the original design of BEA.

Eliminating the outlay cap would raise several issues—chief among them being how to address the control of transportation programs for which no budget authority cap currently exists, and the use of advance appropriations to skirt budget authority caps. However, agreements about these issues could be reached; there is currently a proposal to change the scoring of certain advance appropriations to count them in the year they

are enacted rather than when they become available. The obvious advantage to focusing decisions on budget authority rather than outlays is that the Congress would not spend its time trying to control that which by design is the result of its budget authority decisions—the timing of outlays.

There are other issues in the design of any new caps. For example, for how long should caps be established? What categories should be established within or in lieu of an overall cap? While the original BEA envisioned three categories (Defense, International Affairs, Domestic), over time categories were combined and new categories were created. At one time or another caps for Nondefense, Violent Crime Reduction, Highway, Mass Transit, and Conservation spending existed—many with different expiration dates. Should these caps be ceilings, or should they—as is the case for Highway and Conservation—provide for "guaranteed" levels of funding? The selection of categories—and the design of the applicable caps—is not trivial. Categories define the range of what is permissible. By design they limit trade-offs and so constrain both the Congress and the President.

We have previously reported that the BEA process has not facilitated making decisions on activities intended to promote long-term economic growth.[12] In the past we have suggested consideration of an "investment component" within the discretionary caps; this would cover funding for physical infrastructure, research and development, and education and training (investment in human capital). Such a structure could help the Congress and the President make more informed decisions about the balance between federal funding of investment activities and federal funding for other activities.

Because caps are phrased in specific dollar amounts, it is important to address the question of when and for what reasons the caps should be adjusted. This is critical for making the caps realistic. For example, without some provision for emergencies, no caps can be successful. At the same time, there appears to be some connection between how realistic the caps are and how flexible the definition of emergency is. As discussed in last year's compliance report, the amount and range of spending considered as "emergency" has grown in recent years. There have been a

[12] *Budget Structure: Providing an Investment Focus in the Federal Budget* (GAO/T-AIMD-95-178, June 29, 1995) and *Budget Process: Evolution and Challenges* (GAO/T-AIMD-96-129, July 11, 1996).

number of approaches suggested to balance the need to respond to emergencies and the desire to avoid making the "emergency" label an easy way to raise caps. In the budget resolution for fiscal year 2001 [H. Con. Res. 290] the Congress said it would limit emergencies to items meeting five criteria: (1) necessary, essential, or vital (not merely useful or beneficial), (2) sudden, quickly coming into being, and not building up over time, (3) an urgent, pressing, and compelling need requiring immediate action, (4) unforeseen, unpredictable, and unanticipated, and (5) not permanent, temporary in nature. The resolution further required any proposal for emergency spending that did not meet all the criteria to be accompanied by a statement of justification explaining why the requirement should be accorded emergency status. The fact that this provision was ignored during debates on fiscal year 2001 appropriations bills emphasizes the fact that no procedural hurdle can succeed without the will of the Congress to make it work. Others have proposed providing for more emergency spending—either in the form of a reserve or in a greater appropriation for Federal Emergency Management Agency (FEMA)—under any caps. If such an approach were to be taken, the amounts for either the reserve or the FEMA disaster relief account would need to be included when determining the level of the caps. Some have proposed using a 5- or 10-year rolling average of disaster/emergency spending as the appropriate reserve amount. Adjustments to the caps would be limited to spending over and above that reserve or appropriated level for extraordinary circumstances. Alternatively, with additional up-front appropriations or a reserve, emergency spending adjustments could be disallowed.[13]

Even with this kind of provision only the commitment of the Congress and the President can make any limit on cap adjustments for emergencies work. States have used this reserve concept for emergencies, and their experiences indicate that criteria for using emergency reserve funds may be useful in controlling emergency spending.[14] Agreements over the use of the reserve would also need to be achieved at the federal level.

[13] The administration's fiscal year 2002 budget submission included a proposal to set aside a reserve for emergency needs in the annual budget and appropriations process, arguing that this would limit the need for emergency supplementals to extremely rare events.

[14] *Budgeting for Emergencies: State Practices and Federal Implications* (GAO/AIMD-99-250, Sept. 30, 1999).

This discussion is not exhaustive. There are other issues that would come up in the design of caps. In the next section, we note two of these issues.

Miscellaneous Discretionary Challenges: Leases and User Fees

If the discretionary caps are to be extended, consideration should be given to addressing areas where attempts to "expand" resources under the caps can lead to distortions: the scoring of operating leases and the expansion of user fees as offsets to discretionary spending.

We have previously reported that existing scoring rules favor leasing when compared to the cost of various other methods of acquiring assets.[15] Alternative scorekeeping rules could recognize that many operating leases are used for long-term needs and should be treated on the same basis as purchases. This would entail scoring up front the present value of lease payments covering the same time period used to analyze ownership options. The caps could be adjusted appropriately to accommodate this change.

The 1967 President's Commission on Budget Concepts recommended that receipts from activities that were essentially governmental in nature, including regulation and general taxation, be reported as receipts, and that receipts from business-type activities "offset to the expenditures to which they relate." However, these distinctions have been blurred in practice. As long as classifications remain ambiguous, fee structure is likely to be driven by budget rules that make certain designs most advantageous. The commission could not have anticipated how discretionary caps would serve to erode the criteria it proposed to distinguish the budgetary treatment of fees. The obvious advantage of netting fees against program spending is that the pressures to earmark fees for certain uses make it more likely in today's budget environment that fees from the public will be treated as offsets to appropriations under BEA caps, regardless of whether the underlying federal activity is business or governmental in nature. Consideration should be given to whether it is possible to come up with and apply consistent standards—especially if the discretionary caps are to be redesigned.

[15] *Budget Issues: Budget Scorekeeping for Acquisition of Federal Buildings* (GAO/T-AIMD-94-189, Sept. 20, 1994).

Extending and Refining PAYGO

The PAYGO requirement prevented legislation that lowered revenue, created new mandatory programs, or otherwise increased direct spending from increasing the deficit unless offset by other legislative actions. As long as the unified budget was in deficit, the provisions of PAYGO—and its application—were clear. The shift to surplus raised questions about whether the prohibition on increasing the deficit also applied to reducing the surplus. Although the Congress and the executive branch have both concluded that PAYGO does apply in such a situation, any extension should eliminate potential ambiguity in the future.

This year the administration has proposed—albeit implicitly—special treatment for a tax cut. The Budget states that the President's tax plan and Medicare reforms are fully financed by the surplus and that any other spending or tax legislation would need to be offset by reductions in spending or increases in receipts. It is possible that in a time of budget surplus, the Congress might wish to modify PAYGO to permit increased direct spending or lower revenues as long as debt held by the public is reduced by some set percentage or dollar amount. Such a provision might prevent PAYGO from becoming as unrealistic as overly tight caps on discretionary spending. However, the design of such a provision would be important—how would a debt reduction requirement be specified? How would it be measured? What should be the relationship between the amount of debt reduction required and the amount of surplus reduction (i.e., tax cut or direct spending increase) permitted? What, if any, relationship should there be between this calculation and the discretionary caps?

While PAYGO constrained the creation or legislative expansion of direct spending programs and tax cuts, it accepted the existing provisions of law as given. It was not designed to trigger—and it did not trigger—any examination of "the base." Cost increases in existing mandatory programs are exempt from control under PAYGO and could be ignored. However, constraining changes that increase the cost of entitlements and mandatories is not enough. Our long-term budget simulations show that as more and more of the baby boom generation enters retirement, spending for Social Security, Medicare, and Medicaid will demand correspondingly larger shares of federal revenues. The growth in these programs will increasingly restrict budgetary flexibility. Even if the Social Security surpluses are saved and used for debt reduction, unified deficits are projected to emerge in about two decades and by 2030 Social Security,

Medicare, and Medicaid would require more than three-fourths of federal revenues.[16]

Previously we suggested some sort of “lookback” procedure to prompt a reexamination of “the base.” Under such a process the Congress could specify spending targets for PAYGO programs for several years. The President could be required to report in his budget whether these targets either had been exceeded in the prior year or were likely to be exceeded in the current or budget years. He could then be required to recommend whether any or all of this overage should be recouped—and if so, to propose a way to do so. The Congress could be required to act on the President’s proposal.

While the current budget process contains a similar point of order against worsening the financial condition of the Social Security trust funds,[17] it would be possible to link tripwires or triggers to measures related to overall budgetary flexibility or to specific program measures. For example, if the Congress were concerned about declining budgetary flexibility, it could design a “tripwire” tied to the share of the budget devoted to mandatory spending.

Other variations of this type of “tripwire” approach have been suggested. The 1999 Breaux-Frist proposal (S. 1895) for structural and substantive changes to Medicare financing contained a new concept for measuring “programmatic insolvency” and required congressional approval of additional financing if that point was reached. Other specified actions could be coupled with reaching a “tripwire,” such as requiring the Congress or the President to propose alternatives to address reforms. Or the congressional budget process could be used to require the Congress to deal with unanticipated cost growth beyond a specified “tripwire” by establishing a point of order against a budget resolution with a spending path exceeding the specified amount. One example of a threshold might be the percentage of gross domestic product devoted to Medicare. The President would be brought into the process as it progressed because changes to deal with the cost growth would require enactment of a law.

[16] *Long-Term Budget Issues: Moving From Balancing the Budget to Balancing Fiscal Risk* (GAO-01-385T, Feb. 6, 2001).

[17] 2 U.S.C. 632 (i), and *Medicare Reform: Issues Associated With General Revenue Financing* (GAO/T-AIMD-00-126, Mar. 27, 2000).

Improving the Recognition of Long-Term Commitments

In previous reports we have argued that the nation's economic future depends in large part upon today's budget and investment decisions.[18] In fact, in recent years there has been increased recognition of the long-term costs of Social Security and Medicare.[19]

While these are the largest and most important long-term commitments—and the ones that drive the long-term outlook—they are not the only ones in the budget. Even those programs too small to drive the long-term outlook affect future budgetary flexibility. For the Congress, the President, and the public to make informed decisions about these other programs, it is important to understand their long-term cost implications.

While the budget was not designed to and does not provide complete information on long-term cost implications stemming from some of the government's commitments when they are made, progress can be made on this front. The enactment of the Federal Credit Reform Act in 1990 represented a step toward improving both the recognition of long-term costs and the ability to compare different policy tools. With this law, the Congress and the executive branch changed budgeting for loan and loan guarantee programs. Prior to Credit Reform, loan guarantees looked "free" in the budget. Direct loans looked like grant programs because the budget ignored loan repayments. The shift to accrual budgeting for subsidy costs permitted comparison of the costs of credit programs both to each other and to spending programs in the budget.

Information should be more easily available to the Congress and the President about the long-term cost implications both of existing programs and new proposals. In 1997 we reported that the current cash-based budget generally provides incomplete information on the costs of federal insurance programs.[20] The ultimate costs to the federal government may not be apparent up front because of time lags between the extension of the

[18]See *Budget Process: Evolution and Challenges* (GAO/T-AIMD-96-129, July 11, 1996) and *The Deficit and the Economy: An Update of Long-Term Simulations* (GAO/AIMD/OCE-95-119, April 26, 1995), among others.

[19]*Budget of the United States Government, Fiscal Year 2002*, OMB, Apr. 9, 2001; *The Budget and Economic Outlook: Fiscal Years 2002-2011*, CBO, January 2001; *Long-term Budget Issues: Moving From Balancing the Budget to Balancing Fiscal Risk* (GAO-01-385T, Feb. 6, 2001); *Medicare: Higher Expected Spending and Call for New Benefit Underscore Need for Meaningful Reform* (GAO-01-539T, Mar. 22, 2001).

[20]*Budget Issues: Budgeting for Federal Insurance Programs* (GAO/AIMD-97-16, Sept. 30, 1997).

insurance, the receipt of premiums, and the payment of claims. While there are significant estimation and implementation challenges, accrual-based budgeting has the potential to improve budgetary information and incentives for these programs by providing more accurate and timely recognition of the government's costs and improving the information and incentives for managing insurance costs. This concept was proposed in the Comprehensive Budget Process and Reform Act of 1999 (H.R. 853), which would have shifted budgetary treatment of federal insurance programs from a cash basis to an accrual basis.

There are other commitments for which the cash and obligation-based budget does not adequately represent the extent of the federal government's commitment. These include employee pension programs, retiree health programs, and environmental cleanup costs. While there are various analytical and implementation challenges to including these costs in budget totals, more could be done to provide information on the long-term cost implications of these programs to the Congress, the President, and the interested public. At your request, we are continuing to address this issue.

Dealing With the Uncertainty of Projections

As the budgeting horizon expands, so does the certainty of error. Few forecasters would suggest that 10-year projections are anything but that—projections of what the world would look like if it continued on a line from today. And long-term simulations are useful to provide insight as to direction and order of magnitude of certain trends—not as forecasts. Nevertheless, budgeting requires forecasts and projections. Baseline projections are necessary for measuring and comparing proposed changes. Former CBO Director Rudy Penner has suggested that 5-year and 10-year projections are useful for and should be used for different purposes: 5-year projections for an indicator of the overall fiscal health of the nation, and 10-year projections for scorekeeping and to prevent gaming with regard to the timing of costs.

No 10-year projection is likely to be entirely correct; the question confronting fiscal policymakers is how to deal with the risk that a projection is materially wrong. This year some commentators and Members of the Congress have suggested dealing with this risk by using triggers. Triggers were part of both Gramm-Rudman-Hollings (GRH) and BEA. The GRH triggers were tied to deficit results and generally regarded as a failure—they were evaded or, when deficits continued to exceed the targets, the targets were changed. BEA triggers have been tied to congressional action rather than to deficit results; sequesters have rarely

been triggered—and those were very small. This year the discussion of triggers has been tied specifically to the tax debate and to whether the size of the tax cut in future years should be linked to budget results in those years. There could be several variations on this trigger: actual surplus results, actual revenue results (this with the intent of avoiding a situation in which spending increases can derail a tax cut), and actual debt results. There is little consensus on the effectiveness of any triggers.

Although the debate about triggers has been tied to the tax debate in 2001, there is no inherent reason to limit the discussion to taxes. Some might wish to consider triggers that would cause decisionmakers to make proposals to address fiscal results that exceed some specific target, such as debt or spending as a share of GDP.

Former CBO Director Robert Reischauer has suggested another way of dealing with the fact that forecasts/projections become less certain as they go further out in time. Under his proposal, a declining percentage of any projected surplus would be available—either for tax cuts or for spending increases. Specifically, 80 percent of the surplus would be available to legislators in years 1 and 2, 70 percent in years 3 and 4, 60 percent in years 5 and 6, until reaching the 40-percent level in years 9 and 10. The consequence of not adhering to these limits would be an across-the-board sequester. When a new Congress convenes, it would be given a new budget allowance to spend based on a new set of surplus projections.

Conclusion

Both the deficit fighting experience of the 1980s and 1990s and a look at how other countries have approached fiscal policy in the shift from deficit to surplus can be helpful as the Congress and the President look to changes in the budget process.

To affect decision-making, the fiscal goals sought through a budget process must be accepted as legitimate. For many years the goal of “zero deficit”—or the norm of budget balance—was accepted as the right goal for the budget process. In the absence of the zero deficit goal, policymakers need an overall framework upon which a process and any targets can be based. Some of the other countries we studied shifted to goals framed in terms of debt reduction or surpluses to be saved. Others shifted from a system with a specific end-state goal to a system focused on processes that lead to sound fiscal management.

Some have observed that, as the discretionary caps became less accepted and less realistic, the BEA constraints were increasingly stretched.

Compliance in both form and spirit is more likely if end goals, interim targets, and enforcement boundaries are both accepted and realistic.

The contrast between the perceived failure of GRH and the success of BEA offers another lesson: enforcement is more successful when it is tied to actions controlled by the Congress and the President. Both the BEA spending caps and the PAYGO enforcement rules were designed to hold the Congress and the President accountable for the costs of the laws enacted each session—not for costs which could be attributed to economic changes or other factors. At the same time, end goals are important. This might imply that while goals should be phrased in terms of results, enforcement and interim targets should be tied to actions.

For more than 15 years the budget process has been designed (and redesigned) around achieving a single goal: zero deficit in the unified budget. It is worth remembering, however, that unlike more recent budget process rules, the 1974 Congressional Budget and Impoundment Control Act was not designed to advance a particular fiscal outcome. It was designed to reassert the Congress' role in the fiscal policy process and to provide a structure within which the Congress could decide not only on a fiscal position but also on the allocation of resources across national needs.

Today the Congress and the President face a different budgetary situation than in the past few decades. The current budget challenge is not to achieve a balanced unified budget. Rather, budgeting today is done in the context of projections for continued and growing surpluses followed over the longer term by demography-driven deficits. What process will enable policymakers to deal with the near term without ignoring the long term? At the same time, the challenges for any budget process are the same: what process will enable policymakers to make informed decisions about both fiscal policy and the allocation of resources within the budget?

Extending the current BEA without setting realistic caps and addressing existing mandatory programs is unlikely to be successful for the long term. The original BEA employed limited actions in aiming for a balanced budget. It left untouched those programs—direct spending and tax legislation—already in existence. Going forward with new challenges, we believe that a new process that prompts the Congress to exercise more foresight in dealing with long-term issues is needed. The budget process appropriate for the early 21st Century will have to exist as part of a broader framework for thinking about near- and long-term fiscal goals.

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

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